

AMENDED IN ASSEMBLY APRIL 13, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2612

**Introduced by Assembly Member Brewer
(Coauthor: Assembly Member Maldonado)**

February 25, 2000

An act to amend ~~Section~~ *Sections 401.10 and 6591.5* of, and to add Section 6902.5 to, *and to add and repeal Section 401.11 of*, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, as amended, Brewer. ~~Sales and use taxes~~
Taxation: pipeline assessment and interest.

Existing property tax law requires any property, not exempted from taxation by federal law or pursuant to the California Constitution, to be assessed at its full value. Existing law also establishes a rebuttable presumption of valuation at full value, provided certain conditions are met, for each tax year from the 1984–85 tax year to the 2000–01 tax year for intercounty pipeline rights-of-way on publicly or privately owned property.

This bill would extend the application of this rebuttable presumption to the 2010–11 tax year.

Property tax law specified, until January 1, 2000, certain procedures and requirements for refunds or payments of tax, as applicable, with respect to intercounty pipeline right-of-way property that is subject to local assessment pursuant to a specified court decision.

This bill would reinstate these procedures and requirements to apply until January 1, 2010.

The Sales and Use Tax Law provides that interest is paid by taxpayers with respect to underpayments of tax at the modified adjusted rate, as defined by reference to a specified federal statute, and that interest is paid to taxpayers with respect to overpayments of tax as determined in accordance with a specified federal statute, which requires that the rate paid on overpayments be based on the rate of 13-week treasury bills, as specified.

This bill would delete the requirement that interest on overpayments be based on the rate of 13-week treasury bills and would instead require that interest on both underpayments and overpayments be determined in accordance with the specified federal statute, as modified.

The Sales and Use Tax Law establishes procedures for the approval by the State Board of Equalization of refunds to persons required to file returns.

This bill would, *except as otherwise specified*, provide that any person filing a claim for a refund ~~shall be~~ is entitled to a hearing before the board.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 401.10 of the Revenue and*
2 *Taxation Code is amended to read:*
3 401.10. (a) Notwithstanding any other provision of
4 law relating to the determination of the values upon
5 which property taxes are based, values for each tax year
6 from the 1984–85 tax year to the ~~2000–01~~ 2010–11 tax year,
7 inclusive, for intercounty pipeline rights-of-way on
8 publicly or privately owned property, including those
9 rights-of-way that are the subject of a change in
10 ownership, new construction, or any other reappraisable
11 event during the period from March 1, 1975, to June 30,
12 ~~2001~~ 2011, inclusive, shall be rebuttably presumed to be
13 at full cash value for that year, if all of the following
14 conditions are met:

(1) (A) The full cash value is determined to equal a 1975–76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975–76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars (\$20,000) per mile for a high density property.

(ii) Twelve thousand dollars (\$12,000) per mile for a transitional density property.

(iii) Nine thousand dollars (\$9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) “High density” means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) “Transitional density” means Category 2 (urban) as established by the State Board of Equalization.

(iii) “Low density” means Category 3 (valley-agricultural), Category 4 (grazing), and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984–85 tax year or, if density classifications were not so assigned to the property for the 1984–85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2), shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines. For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline

1 in the right-of-way in accordance with paragraphs (1)
2 and (2).

3 (B) If the State Board of Equalization has determined
4 that an intercounty pipeline, located within a multiple
5 pipeline right-of-way previously valued in accordance
6 with subparagraph (A), has been abandoned as a result
7 of physical removal or blockage, the assessed value of the
8 right-of-way attributable to the last pipeline enrolled in
9 accordance with subparagraph (A) shall be reduced by
10 not less than 75 percent of that increase in assessed value
11 that resulted from the application of subparagraph (A).

12 (4) If all pipelines of a taxpayer located within the
13 same pipeline right-of-way, previously valued in
14 accordance with this section, are determined by the State
15 Board of Equalization to have been abandoned as the
16 result of physical removal or blockage, the assessed value
17 of that right-of-way to that taxpayer shall be determined
18 to be no more than 25 percent of the assessed value
19 otherwise determined for the right-of-way for a single
20 pipeline of that taxpayer pursuant to paragraphs (1) and
21 (2).

22 (b) If the assessor assigns values for any tax year from
23 the 1984–85 tax year to the ~~2000–01~~ 2010–11 tax year,
24 inclusive, in accordance with the methodology specified
25 in subdivision (a), the taxpayer's right to assert any
26 challenge to the right to assess that property, whether in
27 an administrative or judicial proceeding, shall be deemed
28 to have been raised and resolved for that tax year and the
29 values determined in accordance with that methodology
30 shall be rebuttably presumed to be correct. If the assessor
31 assigns values for any tax year from the 1984–85 tax year
32 to the ~~2000–01~~ 2010–11 tax year, inclusive, in accordance
33 with the methodology specified in subdivision (a), any
34 pending taxpayer lawsuit that challenges the right to
35 assess the property shall be dismissed by the taxpayer
36 with prejudice as it applies to intercounty pipeline
37 rights-of-way.

38 (c) Notwithstanding any change in ownership, new
39 construction, or decline in value occurring after March 1,
40 1975, if the assessor assigns values for rights-of-way for any

1 tax year from the 1984–85 tax year to the ~~2000–01~~ 2010–11
2 tax year, inclusive, in accordance with the methodology
3 specified in subdivision (a), the taxpayer may not
4 challenge the right to assess that property and the values
5 determined in accordance with that methodology shall
6 be rebuttably presumed to be correct for that property
7 for that tax year.

8 (d) Notwithstanding any change in ownership, new
9 construction, or decline in value occurring after March 1,
10 1975, if the assessor does not assign values for
11 rights-of-way for any tax year from the 1984–85 tax year
12 to the ~~2000–01~~ 2010–11 tax year, inclusive, at the 1975–76
13 base year values specified in subdivision (a), any assessed
14 value that is determined on the basis of valuation
15 standards that differ, in whole or in part, from those
16 valuation standards set forth in subdivision (a) shall not
17 benefit from any presumption of correctness, and the
18 taxpayer may challenge the right to assess that property
19 or the values for that property for that tax year. As used
20 herein, a challenge to the right to assess shall include any
21 assessment appeal, claim for refund, or lawsuit asserting
22 any right, remedy, or cause of action relating to or arising
23 from, but not limited to, the following or similar
24 contentions:

25 (1) That the value of the right-of-way is included in the
26 value of the underlying fee or railroad right-of-way.

27 (2) That assessment of the value of the right-of-way to
28 the owner of the pipeline would result in double
29 assessment.

30 (3) That the value of the right-of-way may not be
31 assessed to the owner of the pipeline separately from the
32 assessment of the value of the underlying fee.

33 (e) Notwithstanding any other provision of law,
34 during a four-year period commencing on the effective
35 date of this section, the assessor may issue an escape
36 assessment in accordance with the specific valuation
37 standards set forth in subdivision (a) for the following
38 taxpayers and tax years:

39 (1) Any intercounty pipeline right-of-way taxpayer
40 who was a plaintiff in *Southern Pacific Pipe Lines, Inc. v.*

1 State Board of Equalization (1993) 14 Cal. App. 4th 42, for
2 the tax years 1984–85 to 1996–97, inclusive.

3 (2) Any intercounty pipeline right-of-way taxpayer
4 who was not a plaintiff in *Southern Pacific Pipe Lines, Inc.*
5 *v. State Board of Equalization* (1993) 14 Cal. App. 4th 42,
6 for the tax years 1989–90 to 1996–97, inclusive.

7 (f) Any escape assessment levied under subdivision
8 (e) shall not be subject to penalties or interest under the
9 provisions of Section 532. If payment of any taxes due
10 under this section is made within 45 days of demand by
11 the tax collector for payment, the county shall not impose
12 any late payment penalty or interest. Taxes not paid
13 within 45 days of demand by the tax collector shall
14 become delinquent at that time, and the delinquent
15 penalty, redemption penalty, or other collection
16 provisions of this code shall thereafter apply.

17 (g) For purposes of this section, “intercounty pipeline
18 right-of-way” means, except as otherwise provided in this
19 subdivision, any interest in publicly or privately owned
20 real property through which or over which an
21 intercounty pipeline is placed. However, “intercounty
22 pipeline right-of-way” does not include any parcel or
23 facility that the State Board of Equalization originally
24 separately assessed using a valuation method other than
25 the multiplication of pipeline length within a subject
26 property by a unit value determined in accordance with
27 the density category of that subject property.

28 (h) This section shall remain in effect only until
29 January 1, ~~2001~~ 2011, and, as of that date is repealed, unless
30 a later enacted statute, that is enacted before January 1,
31 ~~2001~~ 2011, deletes or extends that date.

32 *SEC. 2. Section 401.11 is added to the Revenue and*
33 *Taxation Code, to read:*

34 *401.11. (a) Notwithstanding any other provision of*
35 *law, refunds or payments of taxes, where applicable, for*
36 *intercounty pipeline right-of-way property that is subject*
37 *to local assessment pursuant to the decision in* *Southern*
38 *Pacific Pipe Lines, Inc. v. State Board of Equalization*
39 *(1993) 14 Cal. App. 4th 42, shall be treated as follows for*
40 *taxpayers and tax years described below:*

1 *(1) The tax refund claims that are subject to this*
2 *subdivision are the tax refund claims for the following*
3 *taxpayers and tax years:*

4 *(A) Tax refund claims of any taxpayer who was a*
5 *plaintiff in Southern Pacific Pipe Lines, Inc. v. State*
6 *Board of Equalization (1993) 14 Cal. App. 4th 42, for tax*
7 *years 1984–85 to 1996–97, inclusive, that were not*
8 *included in the judgment for the taxpayer.*

9 *(B) Tax refund claims of any taxpayer who was not a*
10 *plaintiff in Southern Pacific Pipe Lines, Inc. v. State*
11 *Board of Equalization (1993) 14 Cal. App. 4th 42, for tax*
12 *years 1989–90 to 1996–97, inclusive.*

13 *(2) If taxes due on local assessments, as calculated*
14 *under Section 401.10, are less than the total taxes paid by*
15 *the taxpayer for that year, based on either the original*
16 *State Board of Equalization assessments or escape*
17 *assessments made by the local assessor, or both, the*
18 *county shall refund the difference. Simple interest at the*
19 *rate of 8 percent shall be paid by the county on any*
20 *overpayment for the period from the date of the tax*
21 *payment resulting in the overpayment through*
22 *December 31, 1992. Simple interest at the county's pool*
23 *apportioned rate shall be paid by the county on any*
24 *overpayment for the period from January 1, 1993, through*
25 *the date which is 45 days prior to payment in full. No*
26 *interest shall be payable for the 45-day period*
27 *immediately prior to payment in full. For purposes of this*
28 *subdivision, payment shall be deemed to be timely if*
29 *made 45 days after the effective date of this section.*

30 *(3) If payment of any taxes due under this subdivision*
31 *is made within 45 days of billing by the tax collector for*
32 *payment, the county may not impose late payment*
33 *penalties or interest. Taxes not paid within 45 days of*
34 *billing by the tax collector shall become delinquent at*
35 *that time, and the delinquent penalty, redemption*
36 *penalty, or other collection provisions of this code shall*
37 *thereafter apply.*

38 *(b) Notwithstanding any other provision of law, the*
39 *judgment obligation of each judgment debtor under the*
40 *judgment entered in Southern Pacific Pipe Lines, Inc. v.*

1 *State Board of Equalization (1993) 14 Cal. App. 4th 42*
2 *shall be deemed fully satisfied with respect to a judgment*
3 *creditor if a debtor county makes timely payment to that*
4 *judgment creditor of the amount calculated pursuant to*
5 *this subdivision. For purposes of this subdivision, a*
6 *payment shall be deemed to be timely if made 45 days*
7 *after the effective date of this section. For purposes of this*
8 *subdivision, the amount that shall be paid to satisfy the*
9 *judgment is the total of the amounts awarded to the*
10 *judgment creditor against the debtor county in*
11 *paragraphs 5, 6, 7, and 8 of the judgment entered in*
12 *Southern Pacific Pipe Lines, Inc. v. State Board of*
13 *Equalization (1993) 14 Cal. App. 4th 42, together with*
14 *postjudgment interest thereon, except that no interest*
15 *shall be due for the 45-day period immediately prior to*
16 *payment in full. For purposes of this subdivision,*
17 *postjudgment interest shall be calculated at 7 percent,*
18 *except that postjudgment interest shall be calculated at*
19 *the county's then effective county pool apportioned rate*
20 *for the following periods of time: July 1, 1993, to April 30,*
21 *1994, inclusive; and January 1, 1995, until 45 days prior to*
22 *the date of payment in full.*

23 (c) Any refund or billing for payment made pursuant
24 to this section may be made on the basis of a single,
25 countywide parcel per taxpayer as described in Section
26 401.8.

27 (d) This section shall remain in effect only until
28 January 1, 2010, and, as of that date is repealed, unless a
29 later enacted statute, that is enacted before January 1,
30 2010, deletes or extends that date.

31 SEC. 3. Section 6591.5 of the Revenue and Taxation
32 Code is amended to read:

33 6591.5. (a) ~~Modified~~ “Modified adjusted rate per
34 annum” means the adjusted annual rate established
35 pursuant to subdivision (c), plus three percentage points.

36 (b) “Modified adjusted rate per month, or fraction
37 thereof” means the modified adjusted rate per annum
38 divided by 12.

(c) The rate established shall be determined in accordance with the provisions of Section 6621 of the Internal Revenue Code except that:

(1) The overpayment rate specified in Section 6621(a)(1) of the Internal Revenue Code shall be modified to be equal to the underpayment rate determined under Section 6621(a)(2) of the Internal Revenue Code.

(2) The determination specified in Section 6621(b) of the Internal Revenue Code shall be modified to be determined semiannually as follows:

(A) The rate for January shall apply for the following July 1 to December 31, inclusive.

(B) The rate for July shall apply for the following January 1 to June 30, inclusive.

(d) For purposes of this part, and any other provision of law referencing this method of computation, in computing the amount of any interest required to be paid by the state or by the taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be computed as simple interest, not compound interest.

~~SEC. 2.—~~

SEC. 4. Section 6902.5 is added to the Revenue and Taxation Code, to read:

6902.5. ~~Any~~ (a) *Except as otherwise provided in subdivision (b), any person filing a claim for a refund pursuant to Section 6902 shall be entitled to a hearing before the board.*

(b) *Any person who has been granted an oral hearing on a petition for redetermination pursuant to Section 6562 is not entitled to another oral hearing on a claim for refund if all of the following conditions apply:*

(1) *The claim for refund is filed for the same period or for the same tax or other amounts that were previously considered by the board at the oral hearing.*

(2) *The grounds of the claim for refund are the same as the grounds of the petition previously considered by the board at the oral hearing.*

1 (3) *The person does not submit any additional facts or*
2 *documents with the claim for refund that were not*
3 *previously considered by the board at the oral hearing.*

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